

FEBRUARY 2023

Consultation: Proposed CoFI guidance note on intermediated distribution

About this consultation

The purpose of this consultation is to seek feedback on proposed guidance that outlines our expectations when financial institutions are distributing products and services through intermediaries.

[Read the proposed guidance.](#)

Background

The Financial Markets (Conduct of Institutions) Amendment Act 2022 (CoFI) introduces a new conduct regime to ensure financial institutions (banks, insurers and non-bank deposit takers) comply with a fair conduct principle to treat consumers fairly. To ensure compliance with this “fair conduct principle”, financial institutions are required to establish, maintain and implement effective fair conduct programmes (FCPs) and to take all reasonable steps to comply with the programmes.

Financial institutions will also be required to be licensed by the Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) and to comply with statutory conduct duties introduced by CoFI. This includes requirements when they are distributing products and services through intermediaries (e.g. insurance or mortgage advisers, or car dealers selling vehicle finance or insurance).

CoFI is a principles-based regime with requirements that are flexible and non-prescriptive.

Financial institutions may deal with intermediaries that are licensed as financial advice providers (FAPs) or operate under a FAP licence. These intermediaries are subject to their own set of conduct duties under the financial advice regime. Ultimately our view is that the CoFI and financial advice regimes are complementary with broadly consistent overarching policy objectives – both require the consideration of consumer interests in relation to the distribution of products and services. The policy intention is that the dual regimes create a shared responsibility between financial institutions and FAP-licensed intermediaries for fair treatment and outcomes for consumers.

Purpose of the guidance

The guidance is intended to outline our expectations for intermediated distribution under CoFI at a high level, so they can be applied across different sectors and distribution models. The guidance is non-prescriptive. We want financial institutions to have flexibility to design their own approaches.

Our views in the guidance were informed by feedback from a series of workshops we held with financial institutions and intermediaries in July and August 2022 to support the development of this guidance. We thank all attendees for their participation and feedback, which was very valuable for us.

Role of the guidance

We recognise that the flexibility provided by principles-based regimes such as CoFI can produce uncertainty. By clarifying our expectations, this guidance is intended to provide financial institutions with confidence that they can design their fair conduct programmes in a proportionate manner that meets the CoFI distribution requirements without having unintended or unnecessary impacts on the financial institutions themselves or the intermediaries involved in distribution channels.

The development of this guidance is one of several activities we will be undertaking in relation to intermediated distribution. These steps include:

- **Guidance:** Clarifying our expectations in this guidance.
- **Engagement:** Ongoing engagement and dialogue with financial institutions and intermediaries on how they share responsibility for treating customers fairly when products and services are being distributed to consumers, and comply with their respective statutory obligations. This includes dialogue with individual firms, and at a sector and industry level. This will continue the significant sector-based engagement we have already undertaken in developing this guidance.
- **Industry-led approaches:** Encouraging financial institutions and intermediaries to lead innovation and look proactively at ways to achieve fair outcomes for consumers without unnecessary costs, including by exploring the development of standardised sector-based approaches. Industry associations can play a leadership role in this.
- **Monitoring:** Monitoring market practice as this evolves and matures, and communicating where we see good practice and where we see areas that could be improved.

Next steps

We welcome feedback on the [proposed guidance](#). Please use the feedback form at the end of this document to provide your feedback.

The final day to make a submission on this consultation is **14 April 2023**. After we consider all submissions, we will finalise the guidance and publish it on our website.

This consultation is for financial institutions, intermediaries, their advisers, consumer groups, and other interested parties.

It seeks feedback on the content of proposed guidance on our expectations when financial institutions distribute products and services through intermediaries.

Consultation questions

| Questions | |
|-----------|---|
| 1. | Do you think this guidance will help financial institutions develop their fair conduct programmes in relation to intermediated distribution methods? Please provide reasons for your answer. |
| 2. | Are there any aspects of the guidance you think are unclear or need to be improved? If so, please explain what these are and provide your suggested wording or approach to address these. |
| 3. | Are there any aspects of the guidance you think may have unintended consequences? |
| 4. | Are there any aspects of the guidance you do not agree with, or you think should not be included? Please give reasons for your view. |
| 5. | Are there any additional areas you consider the guidance should address? If so, please provide details. |
| 6. | Are the examples useful? Are there any examples that you would like to see changed, clarified, or omitted? Are there any additional examples that should be included? If so, please provide your suggested wording. |
| 7. | Do you have any comments on the length, format, or presentation of the guidance? If so, please provide details. |
| 8. | Is the 'Overview' section summarising the guidance on a page useful? Are there any changes you would suggest to this? |
| 9. | Do you have any other comments on the guidance? |

